

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER**

PHILLIP ROBERTS,

Plaintiff,

v.

COFFEE COUNTY, TENNESSEE,
JOHN CARROLL,
CHASE STRANGE, and
DAKOTA LILES,

Defendants.

No.: 4:18-CV-4-SKL

ORDER

This is a prisoner's civil rights action for violation of 42 U.S.C. § 1983 that was dismissed with prejudice on January 16, 2020, after Defendants successfully moved for summary judgment [Doc. 61]. Now before the Court is Plaintiff's timely motion for leave to appeal *in forma pauperis* from that dismissal [Doc. 64]. The inmate trust account information [Doc. 65] establishes that Plaintiff lacks the financial wherewithal to pay the appellate filing fee.¹ Therefore, Plaintiff's motion for leave to appeal *in forma pauperis* [Doc. 64] is **GRANTED**.

¹ Plaintiff's inmate trust account information was not initially filed with the instant motion. Instead, Plaintiff's counsel filed a declaration detailing his difficulty obtaining the prison's cooperation in obtaining the document [Doc. 64-1]. Counsel also stated: "It is my studied opinion that, despite what the appellate clerk may say, no additional *in forma pauperis application* (or trust fund statement) should even be required. That is because the Plaintiff was already found to be a pauper. *See* Fed. R. App. P. 24(a)(3). As far as I have seen, no Sixth Circuit case law holds otherwise" [*Id.*] (footnote omitted). Notwithstanding counsel's studied opinion, counsel is advised that the appellate rules provide that a party who has previously been granted *in forma pauperis* ("IFP") status need not obtain further authorization to proceed IFP on appeal unless "a statute provides otherwise." Fed. R. App. P. 24(a)(3). The IFP statute explicitly requires a prisoner

Accordingly, Plaintiff is **ASSESSED** the appellate filing fee of \$505.00. Pursuant to 28 U.S.C. § 1915(b)(2), the custodian of Plaintiff's inmate trust account at the Bledsoe County Correctional Complex is **DIRECTED** to submit to the Clerk, United States District Court, 900 Georgia Avenue, Chattanooga, Tennessee 37402, twenty percent (20%) of Plaintiff's preceding monthly income credited to his account, but only when the amount in the account exceeds ten dollars (\$10), until the full \$505.00 fee has been paid to the Clerk.

The Clerk is **DIRECTED** to send a copy of this Order to the custodian of inmate trust accounts at Bledsoe County Correctional Complex and the Attorney General for the State of Tennessee. The Clerk is further **DIRECTED** to forward a copy of this Order to the Court's financial deputy and to the Clerk of the Sixth Circuit Court of Appeals.

SO ORDERED.

ENTER:

s/ Susan K. Lee

SUSAN K. LEE
UNITED STATES MAGISTRATE JUDGE

seeking to appeal a judgment to submit a certified copy of his trust fund statement for the six-month period immediately preceding the notice of appeal. 28 U.S.C. § 1915(a)(2).